

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

EDA AK, CEM SUMERER and OLANDO	:	
ESPINAL,	:	
Plaintiffs,	:	
	:	
v.	:	No. 5:21-cv-4507
	:	
MERRICK GARLAND, <i>Attorney General, et al.</i> ,	:	
Defendants.	:	

ORDER

AND NOW, this 2nd day of August, 2022, upon consideration of the Motion for Summary Judgment filed by Defendants, ECF No. 22, Plaintiffs' response thereto, ECF No. 25, the Motion for Summary Judgment filed by Plaintiffs, ECF No. 24, Defendants' response thereto, ECF No. 26, and for the reasons set forth in the Court's Opinion issued this date, **IT IS**

ORDERED THAT:

1. Defendants' Motion for Summary Judgment, ECF No. 22, is **DENIED**.
2. Plaintiffs' Motion for Summary Judgment, ECF No. 24, is **GRANTED**.
3. Judgment is **ENTERED** against Defendants and in favor of Plaintiffs.
4. The decision of United States Citizenship and Immigration Services (USCIS) of May 16, 2019, denying the operative petition, and the decision of the Board of Immigration Appeals of July 30, 2020, affirming denial of the petition, are **VACATED**.

5. The matter is **REMANDED** to USCIS for a new adjudication of the operative I-130 Petition consistent with the Court's Opinion issued this date, and with the following special instructions:

- a. When adjudicating the matter on remand, USCIS shall not consider the testimony offered by C. Michael Rohrbach.

b. When adjudicating the matter on remand, USCIS shall not rely on its factual finding that Plaintiffs' ability to communicate in English during the 2016 interview was attributable to the passage of years between the first and second interviews. Rather, per its mandate, USCIS shall consider all other probative evidence on the subject of Plaintiffs' ability to communicate with one another.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.
JOSEPH F. LEESON, JR.
United States District Judge